

# **North Smithfield Zoning Board of Review**

**November 29, 2011, 7:00 pm**

**Kendall Dean School, 83 Green St., Slatersville, RI**

**The meeting was called to order by the Chair at 7:00 pm.**

## **1. Roll Call**

**Present: Chair Stephen Kearns, Steve Scarpelli, Guy Denizard, Paul Pasquariello (arrived at 7:07 pm), Mario DiNunzio, Scott Martin. Absent: Bill Juhr. Also present were Building Official Bob Benoit and Assistant Town Solicitor William Savastano.**

## **2. Disclosure of no compensation or pension credits received by the board members.**

**The Chair stated that the agenda order would be switched and the Board would hear the application of Town & Country Realty, LLC before the application of Marc Dussault. Both applicants agreed with the change of the agenda.**

## **3. Application of Town & Country Realty, LLC, requesting a dimensional variance from Section 6.17, "Sign Regulations," subsection 6.17.6 (D). Locus is 60 Eddie Dowling Highway, Plat 21, Lot 21. Zoning: BN (Neighborhood Business)**

**The Chair stated that first alternate Mario DiNunzio would be voting in place of Bill Juhr and Scott Martin would be voting in place of Paul Pasquariello. The other voting members for this application were Mr. Kearns, Mr. Scarpelli, and Mr. Denizard.**

**Glen Thompson was sworn in by the stenographer. He stated that he is asking for a variance to replace the existing sign with something nicer. It will be 79 sq. ft. with an electronic message board. The existing sign is approximately 59 sq. ft., and is illuminated. The proposed sign will have similar illumination, along with an added electronic message board. The board will be used during business hours (9 am - 10 pm, Monday through Saturday, and 12 pm to 6 pm on Sunday).**

**The following exhibits were entered into the record:**

- P1) Application for Zoning Compliance, 9-20-11 & Application for Hearing before Zoning Board of Review, 11-2-11**
- P2) 200' Abutters List and 200' Radius Map, 10-6-11, prepared by Marc Nyberg Associates**
- P3) Sign Plan, latest revision date 8-30-11, Poyant Signs, Inc.**
- P4) Letter from Marc Nyberg, 10-17-11, describing the dimensions of the existing sign.**

**The Chair stated that the business is located in a commercial district and the sign fits in with the character of the neighborhood. He opened up the hearing to the public, but no one was present to speak**

**for or against the application.**

**Mr. Scarpelli made a motion to approve the application for a dimensional variance from Section 6.17, “Sign Regulations,” subsection 6.17.6 (D), for the property located at 60 Eddie Dowling Highway, Plat 21, Lot 21, for a sign built per plan presented before the Board (P3). Mr. DiNunzio seconded the motion. Roll call vote was as follows: YES: Mr. Kearns, Mr. Scarpelli, Mr. Denizard, Mr. DiNunzio, Mr. Martin. Motion passed with a vote of 5-0.**

**4. Application of Marc Dussault, requesting a dimensional variance from Section 5.5 “District Dimensional Regulations,” subsection 5.5.1. Locus is corner of Sayles Hill Road and Rue de St. Jude, Plat 17, Lot 191. Zoning: RU-40 (Suburban Residential)**

**The Chair stated that Mario DiNunzio would be voting in place of Bill Juhr. The other voting members for this application were Mr. Kearns, Mr. Scarpelli, Mr. Denizard, and Mr. Pasquariello.**

**The Chair stated that Phil Godfrin will be addressing the Board for the applicant. Mr. Kearns stated that he wished to disclose that he knows Mr. Godfrin through work, but he stated that it has no bearing on the application before the Board. Mr. Godfrin was sworn in by the stenographer.**

**Mr. Godfrin stated that the applicant, Marc Dussault, is his cousin, but**

he had asked for Mr. Godfrin's assistance in presenting the application before the Board because Mr. Godfrin has experience in presenting before zoning and planning boards.

The Chair stated that there have been other applications from that part of town involving non-conforming lots of record. Some of those lots fall under the merger ordinance, which automatically merged contiguous non-conforming lots when they were owned by the same owner. He asked when Mr. Dussault came to own this property. Mr. Godfrin submitted a copy of the deed, dated September 7, 2011. The previous owner was Gloria Turcotte (trust held in her behalf). Mr. Denizard stated that he had gone to the tax office to trace the ownership of the lot back to 1956. Mr. Godfrin agreed that the document showing the history of the ownership of the property can be entered into the record. Mr. Benoit also informed the Board that he had researched the ownership history of the property.

The following documents were entered into the record:

P1) Application for a Certificate of Zoning Compliance, 11/3/11

P2) Letter from Marc Dussault explaining request, 10/15/11

P3) 200' Abutters List and Zoning Variance Plan, October 2011

P4) Trustee's Deed for property from Town's Land Evidence Records, 9/7/11

B1) Tax Assessor's record of property's ownership

**Mr. Godfrin asked the Board to approve a dimensional variance for a lot located on the corner of Sayles Hill Road and Rue de St. Jude. The lot is a pre-existing nonconforming lot of record. Because the lot is on a corner, it is treated as having two front setbacks. The applicant is asking for a variance for the north side of the lot. All other setbacks are met. Mr. Godfrin stated that if the lot was not on a corner, the side setbacks would be met. It is the two front setbacks requirement which make the variance necessary.**

**The footprint of the proposed dwelling is 26'x40'. Mr. Godfrin stated that it is a modest raised ranch, very similar to the one on Lot 181. He stated that the variance requested is the least that could be requested.**

**The Chair asked about the septic system. Mr. Godfrin stated that the soil analysis has been completed and the system is being designed. The applicant wanted to wait for approval on this variance request before moving forward with the expense of submitting the septic design to DEM. The soil analysis has been approved by DEM for an Avantix system with sand filter, as shown on plan. Mr. Denizard stated that he would like to see the system details, location of the well, and the signed document from DEM showing approval of such system. Mr. Godfrin stated that in his experience, if DEM does not approve the system, the Building Official will not issue a building permit. Mr. Scarpelli stated that there is a check and balance system in place, since the building permit is contingent on approval of septic**

**system and proper location of the well.**

**The Board also discussed the positioning of the house on the property and whether another plan could result in not needing the variance. Mr. Godfrin stated that many plans were discussed, but this is the best one. The position of the house makes it perfectly symmetrical with the house on the opposite side of Rue de St. Jude and keeps with the character of the neighborhood.**

**The Chair opened the meeting up to the public. No one was present to speak in favor of the application. Roland Smith of 165 Sayles Hill Road and Richard Blain of 163 Sayles Hill Road were present to speak against the application. They were both sworn in by the court stenographer. Applicant Marc Dussault was also sworn in by the stenographer.**

**Mr. Smith spoke to the Board about his concerns with the small size of the lot and the water runoff that will affect the abutting properties. He stated that he currently has water in his basement that started after a large house was built in the neighborhood and he is concerned that more development will increase the water problems. He stated that his backyard floods and there is nowhere else for more water to go. Mr. Godfrin replied that the runoff will meet or exceed all Town and DEM requirements. The Chair stated that the property owner should be able to make use of his property, but that he shares Mr. Smith's concerns about lots of this size.**

**Mr. Blain also spoke to the issue of water runoff. He stated that a neighboring house that had an engineer-designed retention pond put in, causes flooding in his yard. He said that even if the system is designed by an engineer, there can still be problems. He stated that the high water table in the area causes floods to his yard and house. He also stated that the septic system will be too close to his well. He added that the street is deteriorating due to the water in the neighborhood and stated that there is nowhere else for the water to go. Mr. Blain stated that the water problems make him unable to sell his house, and that additional building will only make it worse. He stated that he is concerned that the applicant will raise his property, which will make Mr. Blain's yard a catch basin. He stated that 10 years ago, he and a neighbor offered to buy the property in order to prevent such a situation and he is upset that the law doesn't protect everyone.**

**Mr. Dussault stated that the property will be raised slightly on the Sayles Hill Road side and the left side, but that they will not be pushing water back into the abutting properties. He stated that the lot is not being built up above the level of the road.**

**Mr. Blain stated that 3 septic systems and 3 wells will be in an area that is only big enough for 1 system and 1 well. The Chair stated that the Board does not grant approval for the well or the septic system. DEM grants that approval. The Board can only approve the request**

before them and decide if the person can have beneficial use of their property. Mr. DiNunzio stated that he is sympathetic to the concerns of the neighbors, but the Board is being asked to rule on things outside of its purview.

Mr. Denizard repeated his concern with the well and septic system and stated that he cannot vote on this application until he sees a DEM signed document. The Chair again stated that DEM will look at the design with respect to the neighborhood and that the applicant cannot get building permit without an approved septic system. He read the five criteria by which the Zoning Board must consider requests for dimensional variances. They are to consider unique characteristics of the property due to size but they are not approving wells or septic.

Mr. Benoit stated that up to 20% of the lot can be covered with structures. This application is well within the 20%.

Mr. Scarpelli made a motion to approve the application of Marc Dussault, requesting a dimensional variance from Section 5.5 "District Dimensional Regulations," subsection 5.5.1. Locus is corner of Sayles Hill Road and Rue de St. Jude, Plat 17, Lot 191. Zoning: RU-40 (Suburban Residential), based on the criteria outlined in section 9.3.1, a, b, c, d, e, with the condition that DEM approval is granted for the well and septic system. Otherwise the variance is null and void. Mr. Pasquariello seconded the motion. Roll call vote was as



**follows: YES: Mr. Kearns, Mr. Scarpelli, Mr. Pasquariello, Mr. DiNunzio. Mr. Denizard abstained from the vote. Motion passed, with a vote of 4-0.**

**Mr. Scarpelli made a motion to adjourn at 8:20 pm. Mr. Pasquariello seconded the motion, with all in favor.**